

Exhibit IND7

1 UNITED STATES OF AMERICA
2 UNITED STATES DISTRICT COURT
3 CENTRAL DISTRICT OF CALIFORNIA
4 WESTERN DIVISION

5 - - -
6 HONORABLE MARIANA R. PFAELZER,
7 UNITED STATES DISTRICT JUDGE PRESIDING
8 - - -

9 NEUROGRAFIX,)
10) CERTIFIED COPY
11 PLAINTIFF,)
12)
13 VS.) CV 10-01990 MRP
14)
15 SIEMENS MEDICAL SOLUTIONS)
16 USA INC., et al.,)
17)
18 DEFENDANTS.)
19 -----)
20)

21 MARKMAN HEARING
22 REPORTER'S TRANSCRIPT OF PROCEEDINGS
23 THURSDAY, MARCH 24, 2011
24 A.M. SESSION
25 LOS ANGELES, CALIFORNIA

21 SHERI S. KLEEGER, CSR 10340
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1 This is at Slide 28.

2 The specification says: The average image
3 intensity (S) is represented by Equation 1. Clarifies
4 using average pixel intensities at Column 14.

5 The average --

6 THE COURT: I think you have made your
7 point.

8 MR. FENSTER: Okay. So now, how do you
9 calculate the average intensity? Well, Your Honor, the
10 software that's supplied with every MRI machine, both at
11 the time of the invention and today, automatically
12 calculate it. Automatically calculate it.

13 So what you do is you select a region of
14 interest. The operator says, I want to measure the
15 contrast of the nerve and compare it to the background,
16 so they take --

17 THE COURT: The machine does it.

18 MR. FENSTER: Well, the operator first has
19 to select a region of interest that they know to be
20 nerve. They draw a circle around it.

21 THE COURT: I would assume so, yes.

22 MR. FENSTER: Okay. So they draw a circle
23 around it, and this is what pops up, mean or average
24 intensity. And it's undisputed that this software did
25 that automatically. So what you do is the operator

1 selects a region of interest in the nerve and a region
2 of interest in the background and divides the two.

3 THE COURT: The point is you don't need any
4 more software because it's in the machine.

5 MR. FENSTER: Well, when we get to
6 process --

7 THE COURT: That's the way it is programmed.

8 MR. FENSTER: That's true for how the
9 average is calculated.

10 THE COURT: That's right.

11 MR. FENSTER: To know whether one of skill
12 in the art would know whether this conspicuity of 1.1 is
13 being met or not, this is the most basic measurement
14 that radiologists do with MRI, is they take a region of
15 interest and measure the intensity there, and they
16 divide it by the background to see the contrast.

17 THE COURT: All right.

18 MR. FENSTER: And that's exactly what is
19 expressly disclosed.

20 THE COURT: All right. Stop now.

21 MR. FENSTER: Your Honor, just very briefly,
22 let me just go to Slide 47.

23 The proposed construction at the top is what
24 is expressly defined lexicographically in the patent,
25 that is the conspicuity equals the contrast in, for

1 example, intensity and color between the nerve and any
2 adjacent nonneural tissue is at least 1.1 time. That is
3 the express definition that is in the specification.

4 I want to offer an alternative, because I
5 think that the defendants' complaint is, Well, it
6 doesn't tell you how to calculate the contrast. And I
7 want your claim construction to be clear for the jury
8 so you can consider this alternative that a conspicuity
9 of the nerve that is at least 1.1 times means that the
10 ratio of the average intensity of nerve to average
11 intensity of the nonneural tissue is at least 1.1.

12 That is what is expressly disclosed in the
13 specification and gives an even more definite answer
14 for -- or guidance to the jury for conspicuity.

15 THE COURT: All right. Thank you.

16 MR. LOCASCIO: One point, Your Honor. When
17 Mr. Fenster stood up, he said that I had never made the
18 argument that you can't claim a result in the U.S., so
19 what's the problem with controlling.

20 Indeed, you cannot claim a result if you
21 don't tell someone how to do it, Your Honor. If you
22 don't tell someone the parameters in your claim -- and
23 that's what Halliburton says -- you can't just claim the
24 solution if you haven't actually come up with the
25 solution, Your Honor. And you need to disclose that in

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CERTIFICATE OF REPORTER.

COUNTY OF LOS ANGELES)
) SS.
STATE OF CALIFORNIA)

I, SHERI S. KLEEGER, OFFICIAL COURT REPORTER, IN AND FOR
THE UNITED STATES DISTRICT COURT FOR THE CENTRAL
DISTRICT OF CALIFORNIA, DO HEREBY CERTIFY THAT PURSUANT
TO SECTION 753, TITLE 28, UNITED STATES CODE, THE
FOREGOING IS A TRUE AND CORRECT TRANSCRIPT OF THE
STENOGRAPHICALLY REPORTED PROCEEDINGS HELD IN THE
ABOVE-ENTITLED MATTER AND THAT THE TRANSCRIPT PAGE
FORMAT IS IN CONFORMANCE WITH THE REGULATIONS OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES.

DATE: APRIL 4, 2011

SHERI S. KLEEGER, CSR
FEDERAL OFFICIAL COURT REPORTER